

By: Ellis

S.B. No. 647

A BILL TO BE ENTITLED

AN ACT

relating to the use of unencumbered surplus state revenues to create a permanent fund for indigent defense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 403, Government Code, is amended by adding Section 403.1064 to read as follows:

Sec. 403.1064. PERMANENT FUND FOR INDIGENT DEFENSE. (a) The permanent fund for indigent defense is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund under Subsection (b); and

(2) the available earnings of the fund determined in accordance with Section 403.1068.

(b) The comptroller shall, not later than the 90th day of each state fiscal biennium, transfer to the permanent fund for indigent defense 10 percent of any unencumbered positive balance of general revenues on the last day of the preceding state fiscal biennium. The amount of money transferred under this subsection for a single biennium may not exceed \$100 million. For purposes of this subsection, general revenues are considered encumbered on the last day of a state fiscal biennium only to the extent that general revenues are subject to payment for particular identifiable and legally enforceable obligations of this state that were incurred on or before that day and intended to be paid out of appropriations for

1 that biennium.

2 (c) Except as provided by Subsection (d), the money in the
3 fund may not be appropriated for any purpose.

4 (d) The available earnings of the fund may be appropriated
5 only to the Office of Court Administration for distribution to
6 counties for the purpose of providing or defraying the cost of
7 providing indigent defense services. The Office of Court
8 Administration shall distribute the money in accordance with the
9 formula adopted by the Task Force on Indigent Defense under Section
10 71.0625.

11 SECTION 2. Section 403.1068(a), Government Code, is amended
12 to read as follows:

13 (a) This section applies only to management of the permanent
14 funds established under Sections 403.105, 403.1055, 403.106,
15 403.1064, 403.1065, 403.1066, and 403.108.

16 SECTION 3. Subchapter D, Chapter 71, Government Code, is
17 amended by adding Section 71.0625 to read as follows:

18 Sec. 71.0625. FORMULA FOR DISTRIBUTION OF AVAILABLE
19 EARNINGS OF THE PERMANENT FUND FOR INDIGENT DEFENSE. The Task Force
20 on Indigent Defense shall adopt a formula for the distribution to
21 counties of the available earnings of the permanent fund for
22 indigent defense established under Section 403.1064. The formula
23 must be based on:

24 (1) a county's population;
25 (2) a county's compliance with standards developed by
26 the task force under Section 71.060; and

27 (3) a county's demonstrated compliance with the

1 requirements of state law relating to indigent defense.

2 SECTION 4. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2007.